

# **INVITATION TO TENDER**

**for the  
PROVISION OF  
SECURITY SERVICES  
FOR THE  
EXMOUTH CAMPUS**

07 July 2003

To :

**Dear Sirs**

**CONTRACT FOR THE PROVISION OF SECURITY SERVICES FOR THE EXMOUTH CAMPUS  
TENDER No: UOP/LF/014/03**

You are invited to tender for the above contract. The Invitation to Tender consists of the following documents:

- Letter of Acknowledgement
- Part 1 - Tendering Instructions
- Part 2 - Conditions of Tender
- Part 3 - Form of Tender
- Part 4 - Contract Documents

Please check the contents of the Invitation to Tender package when you receive it and then return the Letter of Acknowledgement to us.

You are required to hold all information pertaining to this contract confidential and to limit the dissemination of information within your organisation on a need-to-know basis.

Your tender must be received by noon on **21 July 2003**, which date will be the Tender Date in the attached Invitation to Tender. It is our intention to complete our tender evaluation in such time that the contract for this work will be awarded by 1<sup>st</sup> September 2003.

Yours faithfully,

**Jenny Bushrod  
Head of Procurement**

## LETTER OF ACKNOWLEDGEMENT

Date :

Head of Procurement  
Procurement Unit  
University of Plymouth  
Drake Circus  
Plymouth  
PL4 8AA

Dear Mrs Bushrod

### **CONTRACT FOR PROVISION OF SECURITY SERVICES FOR THE EXMOUTH CAMPUS**

1. We acknowledge receipt of your Invitation to Tender package.
- 2.\* (a) We have received all the documents listed in the Invitation to Tender without damage and in usable condition.  
  
(b) We have read the Invitation to Tender and will tender in accordance with the specified requirements.

***or***

- 2.\* We do not wish to tender and therefore return the whole Invitation to Tender package with this letter.

Yours faithfully,

For and on behalf of :

\* Delete as required.

## **PART 1 - TENDERING INSTRUCTIONS**

### **1. Introduction**

**1.1** The University of Plymouth (hereafter referred to as the University) wish to appoint a Contractor to provide Security Services on the Exmouth campus. The appointment will be by a process of competitive tender.

**1.2** The requirement is set out in the *Specification*, which is attached as an Annex to this Part (Part 1).

### **2. Completion of Tender**

**2.1** Your tender should comprise the following documents:

Form of Tender	
Appendix A	- Tenderer's Submission
Appendix B	- Other information required by the University
Appendix C	- Alternative Proposals
Appendix D	- Qualification of the Contract

You are not required to submit any other documents.

#### **2.2 Form of Tender**

Complete and sign the Form of Tender.

#### **2.3 Appendix A - Tenderer's Submission**

Complete Appendix A by inserting all of the detail requested. Your answers should relate only to the services and method of recompense set out in the Specification and in Part 4 - Contract Documents. Prices, if any, for alternative proposals should be included in Appendix C.

The prices you quote should exclude VAT.

This Appendix forms part of the offer made in the Form of Tender.

If you are successful in your tender, the prices you have offered in Appendix A (or in Appendix C, if appropriate) will be entered into the Contract Documents.

## **2.4 Appendix B - Additional Information Required by the University**

**Section I** of this Appendix forms part of the offer made in the Form of Tender.

**Section II** is for additional information not supplied elsewhere:

- (i) Details of your staff recruitment, induction and ongoing training
- (ii) Details of the equipment and systems to be provided
- (iii) Outline of the management structure and brief work history of the manager who would be responsible for this contract
- (iv) Your approach to providing this service for the University
- (v) A copy of your latest published accounts;
- (vi) Please provide three references, to include the contact name and address, nature of service provided and commencement date of contract.

If you wish, supply us with any other information you feel might legitimately support your tender.

**Note:** If you wish to submit alternative proposals (in addition to the required proposal) these should be included under Appendix C and **not** under Section II of Appendix B

## **2.5 Appendix C - Alternative Proposals**

Include under this Appendix any alternative proposals you wish to submit for consideration, and their costings. You are not required to complete this Appendix, but innovative proposals designed to provide the best value for money would be welcome.

## **2.6 Appendix D - Qualification of the Contract**

Include here details of any areas where you will not be able to comply with the contract as set out in this Invitation to Tender. Qualifications should only be made if you cannot comply with the requirements of the contract at any price.

If your tender is qualified we reserve the right to reject it in total.

**ANNEX  
to Part 1 - Tendering Instructions**

**NIGHT SECURITY COVER - EXMOUTH CAMPUS**

**Tender Specification**

**1. Introduction**

The University of Plymouth is located across four Campuses within Devon and currently provides most of its security requirements in-house. The focal point of the University's security operations is the Security Lodge which is located on the Plymouth Campus and which is staffed on a 24 hour per day, 365 days per year. Security on the out lying Campuses is provided during part of a 24 hour day by University security staff.

**2. Scope**

The University is currently seeking Contractors to provide night time security on the Exmouth Campus between 22.00 hours and 06.30 hours daily. Bids are required for both static guard provision and mobile patrol provision.

**3. Relevant Documentation**

University Health & Safety Policy  
Data Protection Act  
Site campus plan  
Equal Opportunities Code

**4. Standards**

Relevant Quality Assurance Standards  
SIA Licence (or proof of application for licence)

**5. The Requirement**

(A) The appointed Contractor shall be required to provide two mobile patrols on site between 2200 hours and 0630 hours daily, throughout the year, including weekends and bank holidays. The exact timings of such patrols shall be varied sufficiently to ensure that a predictable pattern of visits is not evident.

or

(B) The appointed Contractor shall be required to provide a static security guard from 22.00 hours to 06.30 hours daily, throughout the year, including weekends and bank holidays.

**5.1 The Site**

The site shall be the area embracing all University property at the Exmouth Campus, including Halls of Residence, the sports pitches and the pavilion

**5.2. The Tasks**

The tasks required of the Security Officer shall be in accordance with good

professional practice and are summarised as follows:

- ◆ patrolling the site
- ◆ lock and unlock buildings as and when required
- ◆ changing CCTV tapes as instructed
- ◆ providing a daily occurrence report
- ◆ providing a weekly report on external lighting serviceability
- ◆ approaching suspicious persons
- ◆ notifying appropriate personnel in case of emergencies
- ◆ liaison with campus personnel as required

### 5.3. **Communications**

The Security Officer shall be provided by the Contractor with a means of effective communications between the Security Officers and both the Contractor's base and the University Security Lodge at the Plymouth Campus. There will be a requirement for regular check calls to the University Security Lodge.

(A ) on each arrival & departure from site.

### 5.4. **Transport**

The Security Officer shall be provided by the Contractor with means of transport suitable for site and adequate to enable the Security Officer to perform the required tasks effectively.

### 5.5. **Management and Control**

The successful Contractor shall be required to provide a check system to enable proof of patrol activity to be supplied to the University. Monthly reports will be requested by the University on a random selection of dates.

The Contractor shall be required to prepare and issue detailed assignment instructions to the Contractor's Security Officer. Prior to issue, such assignment instructions are to be discussed with, and approved by, the Learning Facilities Manager (Exmouth).

The Contractor shall nominate a Manager with responsibility for the University Contract. Regular meetings are required during the contract duration, monthly with Campus Superintendent, quarterly with Learning Facilities Manager. There will be a full service review prior to any proposed extension of this contract.

### 5.6 **Uniform**

The Contractor will ensure that the Security Officer wears the Contractor's uniform, which should be clearly identifiable, at all times.

**6. Additional Hours**

From time to time, and at the discretion of the University's Learning Facilities Manager (Exmouth), the University may require the Contractor to extend, or add to the hours and duties as referred to under paragraph 5 above.

**7. Health and Safety**

The Contractor must ensure that their operation complies with:

- all current health and safety legislation
- all current relevant EC legislation
- all relevant sections of the University's Safety Policy
- the University's Accident/Incident reporting system

It is the Contractor's responsibility to report to the University all building defects noticed during the provision of the service, in particular, defects in any public areas, toilets and offices, any defects in finishes (e.g. cracked tiles), any cracked or broken windows and any defective lights.

**8. Liaison**

The Contract will be managed by the Learning Facilities Manager (Exmouth) who may, from time to time, and following discussions with the Contractor, vary details such as tasks, routes and lock-up times. The Security Officer allocated to the site by the Contractor will be expected to liaise with the Learning Facilities Manager (Exmouth) and also with the University's Security staff.

**9. Period of Contract**

The period of Contract is for twelve months, commencing on 1<sup>st</sup> September 2003. However, the University may, at its discretion, extend the Contract for a further 2 x twelve month periods.

## **PART 2 - CONDITIONS OF TENDER**

### **1. General**

#### **1.1 Contents of the Invitation to Tender**

The Tender is to be made strictly in accordance with the requirements of this Invitation to Tender which, together with any addenda that are issued, are together referred to as the Invitation to Tender.

#### **1.2 Return if not Tendering**

If, after acknowledging receipt of this package, the Tenderer decides not to submit a Tender, the Invitation to Tender package must be returned immediately.

#### **1.3 Enquiries concerning the Tender**

Any query in connection with the Tender or the Invitation to Tender shall be submitted in writing, quoting the Tender Reference number to:

Mrs Jenny Bushrod  
Procurement Unit  
University of Plymouth  
Drake Circus  
Plymouth PL4 8AA  
Fax: 01752 232485  
email: [procurement@plymouth.ac.uk](mailto:procurement@plymouth.ac.uk)

The response by the University as well as the nature of the query will be notified to all Tenderers, without disclosing the name of the Tenderer who initiated the query. On no account before the Tender Date is the Tenderer to contact or communicate with any other person involved in work concerning this Invitation to Tender unless the University redirects the enquiry.

#### **1.4 Independent Tender**

By submission of a Tender, the Tenderer warrants that:

(a) The prices in the Tender have been arrived at independently, without consultation, communication, agreement or understanding for the purpose of restricting competition, as to any matter relating to such prices, with any other Tenderer or with any competitor.

(b) Unless otherwise required by law, the prices which have been quoted in the Tender have not knowingly been disclosed by the Tenderer, directly or indirectly, to any other Tenderer or competitor, nor will they be so disclosed.

(c) No attempt has been made or will be made by the Tenderer to induce any other person or firm to submit or not to submit a Tender for the purpose of restricting competition.

## **1.5 Modification by the University**

Any advice of a modification to the Invitation to Tender shall be issued at least seven days before the Tender Date and shall be issued as an addendum to, and shall be deemed to constitute part of, the Invitation to Tender. If necessary, the University shall revise the Tender Date in order to comply with this requirement. Except under exceptional circumstances no extension of time and date by which the Tender must be submitted will be granted.

## **2. Preparation of Tender**

### **2.1 Cost of Tender**

The University will not be responsible for any costs or expenses incurred by the Tenderer in connection with the preparation or delivery or in the evaluation of the Tender.

### **2.2 Language of Tender**

The Tender and all accompanying documents are to be in English.

### **2.3 Validity Period of Tender**

All details of the Tender, including prices and rates, are to remain valid for acceptance until 90 days after the Tender Date.

### **2.4 Currency of Tender**

Tender prices shall be in sterling.

## **3. Delivery of Tender**

### **3.1 Number of Copies**

Full details of the documents to be returned are given in this Invitation to Tender. These documents shall together comprise the "Tender". Please return the original (clearly marked ORIGINAL) plus three copies (clearly marked FIRST COPY, SECOND COPY, THIRD COPY)

### **3.2 Delivery Date**

The Tender must be packed for despatch in the manner described in paragraph 3.3 and **delivered no later than noon on 21 July 2003, this date being the TENDER DATE.**

### **3.3 Delivery**

The Tender must be parcelled, securely sealed and labelled with the enclosed yellow Tender Return Label. The envelope/package should bear no indication of the sender.

Failure to follow these instructions may render the Tender invalid.

#### **4. Treatment of Tender**

##### **4.1 The University's discretion**

The University does not undertake to accept the lowest Tender, or part, or all of any Tender, and the acknowledgement of receipt of any submitted Tender shall not constitute any actual or implied agreement between the University and the Tenderer. The University reserves the right to accept any part, or all, of any Tender or Tenders at its sole discretion.

##### **4.2 Tender not Returned**

No part of the Tender submitted will be returned to the Tenderer.

##### **4.3 Results of Tendering**

An evaluation team will consider all Tenders correctly submitted and will select one or more for interview, with a view to reaching a contractual agreement subject to clarification of any outstanding matters. It is proposed that interviews will be held on 30 July 2003 at the Exmouth campus. When the final decision on the results of the Invitation to Tender has been taken all Tenderers will be informed in writing whether or not they have been successful and the range and number of the Tenders received.

### **PART 3 - FORM OF TENDER**

Date:

The Head of Procurement  
University of Plymouth  
Procurement Unit  
Drake Circus  
Plymouth PL4 8AA

Dear Sirs

#### **CONTRACT FOR THE PROVISION OF SECURITY SERVICES ON THE EXMOUTH CAMPUS TENDER NUMBER: UOP/LF/014/03**

1. I/we have read the information provided in your Invitation to Tender and subject to and upon the terms and conditions contained in Part 4 - Contract Documents - I/we offer to supply the services described in the said contract documents in such manner as may be required.

2. Terms and Conditions. I/we agree that this tender and any contract which may result therefrom shall be based upon the documents listed below, and that the Buyer is the [give the legal entity of your University (eg the University Court of the University of Progress)].

2.1 The contract documents as shown in Part 4 of the Invitation to Tender.

2.2 The prices to be inserted in the Contract shall be those shown in Appendix A of our tender; or, if the University selects an alternative proposal from Appendix C, then the prices shown in Appendix C pertaining to that proposal.

2.3 In other sections of the Contract information provided in Section I of Appendix B - Additional Information Required by the University, will be included.

2.4 Any qualifications set out by us in Appendix D - Qualifications, shall also apply, although we understand that making a qualification may result in your disregarding our tender in total.

3. In Appendix C - Alternative Proposals, I/we include alternative proposals, together with costings, which we feel might provide better value for money for the University than the required proposal. / I/we do not wish to submit alternative proposals in Appendix C - Alternative Proposals  
\*

4. The prices quoted in this Tender are valid until 90 days from the Tender Date and I/we confirm that the terms of the Tender will remain binding upon me/us and may be accepted by you at any time before that date.

**\* delete as applicable**

5. I/we note that the contract shall be valid upon acceptance and signature by both parties of the Contract Documents.

6. Law. I/we agree that the construction, validity, performance and execution of any contract that may result from this tender shall be governed by and interpreted in accordance with English Law and shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

7. I/we agree to bear all cost incurred by me/us in connection with the preparation and submission of this Tender and to bear any further costs incurred by me/us prior to the award of any contract.

8. I/we agree that any other terms or conditions of contract or any general reservation which may be printed on any correspondence emanating from me/us in connection with this tender or with any contract resulting from this tender, shall not be applicable to this tender or to the contract.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2002

Signed \_\_\_\_\_ in the capacity of

\_\_\_\_\_  
duly authorised to sign Tenders for and on behalf of

\_\_\_\_\_  
IN BLOCK CAPITALS

Registered Address :

**APPENDIX A TO THE FORM OF TENDER**

**TENDERER'S SUBMISSION**

**SCHEDULE OF PRICES**

		<b>OPTION A</b>	<b>OPTION B</b>
		<b>£ + VAT per man hour</b>	
<b>A</b>	Hourly Rate		
<b>B</b>	Bank Holidays with the exception of Christmas Day, Boxing Day and New Year's Day		
<b>C</b>	Christmas Day, Boxing Day, New Years Day		
<b>D</b>	Additional Hours/ any extension of agreed hours with the Bank Holiday rates as criteria above		

The above charges are inclusive of labour, uniforms, equipment and mobile patrol van.

**SCHEDULE OF WAGES PAID TO STAFF**

		OPTION A	OPTION B
		£ + VAT per man hour	
A	Hourly Rate		
B	Bank Holidays with the exception of Christmas Day, Boxing Day and New Year's Day		
C	Christmas Day, Boxing Day, New Years Day		
D	Additional Hours/ any extension of agreed hours with the Bank Holiday rates as criteria above		

**TERMS OF PAYMENT**

The University of Plymouth shall issue an official order to supply services as specified in paragraph 3 of Section 3. for a period of one year

commencing at ..... on .....

and terminating at ..... on ..... inclusive.

The Contractor shall submit invoices monthly in arrears in respect of the services provided as specified in paragraph 3 of Section 3, with any charges in accordance with paragraph C above arising from additional hours requested by the Learning Facilities Manager (Exmouth), and supplied in the preceding month. Terms of payment to be 30 days from date of invoice.

[2] **Value Added Tax.**

The prices contained herein shall **exclude** Value Added Tax which shall be chargeable, where appropriate, in accordance with Government legislation.

[ **Note:** Prices for any alternative proposals you wish to make should be included in Appendix C.]

**APPENDIX B TO THE FORM OF TENDER**

**ADDITIONAL INFORMATION REQUIRED BY THE UNIVERSITY**

**Section I : Information Required for Inclusion in the Contract**

**1. Name of Contractor:**

**2. Contractor's Address:**

**3. Name, Designation, Telephone No., and Fax No. of Contractor's Representative:**

**Section II : Other Information Required by the University:**

- (i) Details of your staff recruitment, induction and ongoing training
- (ii) Details of the equipment and systems to be provided
- (iii) Outline of the management structure and brief work history of the manager who would be responsible for this contract
- (iv) Your approach to providing this service for the University
- (v) A copy of your latest published accounts;
- (vi) Please provide three references, to include the contact name and address, nature of service provided and commencement date of contract.

*Note to Tenderers: See paragraph 2.4 of the Tendering Instructions. If you wish to supply any other information in support of your Tender it should be included here. If the information is contained in separate papers a list of the papers should be given here.*

## **APPENDIX C TO THE FORM OF TENDER**

### **ALTERNATIVE PROPOSALS**

*Note to Tenderers: Include here any alternative proposals you wish to submit for consideration, together with their costings. You are not required to complete this Appendix but innovative proposals designed to provide better value for money for the University would be welcome.*

## **APPENDIX D TO THE FORM OF TENDER**

### **QUALIFICATION OF THE CONTRACT**

*Note to Tenderers: Only submit details under this heading only if you are unable to comply with the Terms and Conditions indicated in the Contract documents at Part 4 of the Invitation to Tender.*

#### **PART 4 - CONTRACT DOCUMENTS**

Any Contract which may result from this Invitation to Tender will be based upon the attached draft Contract into which will be inserted the prices and other details at Appendix A - Tenderer's Submission, and in Section I of Appendix B - Additional Information Required by the University, subject to any changes which may be agreed following post-tender clarification.

In the event that a contract is awarded on the basis of an alternative proposal submitted in Appendix C, the attached draft Contract will be amended to the extent necessary to accommodate that proposal.



**UNIVERSITY OF PLYMOUTH**

**CONTRACT CONDITIONS**

**PROVISION OF SECURITY SERVICES  
FOR EXMOUTH CAMPUS**

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## 1. Definitions

In these Conditions, the following expressions shall, unless the context requires otherwise, have the following meanings:-

- 1.1. "Contract" shall mean the agreement made between the University and the Contractor and shall comprise the following documents:
  - These Contract Conditions
  - Schedule 1: Service and Performance Specification
  - Schedule 2: Terms of Payment
- 1.2. "Contract Manager" shall mean the designated University Officer responsible for this contract
- 1.3. "Contractor" shall mean the party with whom the University enters into the Contract
- 1.4. "Contractor's Background Information" shall mean Information owned or controlled by the Contractor
- 1.5. "The University" shall mean the University of Plymouth
- 1.6. "Goods" and "the Goods" shall mean any goods, or (where the context requires) any of the goods, to be supplied to the University under the Contract
- 1.7. "Information" shall mean all information whether written or oral or in any other form, including but not limited to documentation, specifications, reports, data, notes, drawings, models, patterns, samples, Software, computer outputs, designs, circuit diagrams, inventions, whether patentable or not and know-how.
- 1.8. "Intellectual Property Rights" shall mean any patent, petty patent, registered design, copyright, design right, semi-conductor topography right, know-how, or any similar right exercisable in any part of the world and shall include any application for the registration of any patents or registered designs or similar registrable rights in any part of the world
- 1.9. "Location" shall mean the location/s identified in Schedule 1 - Service and Performance Specification
- 1.10. "Services" and "the Services" shall mean the service or services (or, where the context requires) any of the services, to be provided to the University under the Contract, including, without limitation, the provision of any Goods
- 1.11. "Service Information" shall mean any Information supplied by the University concerning the purpose, function or design of the Services or the Goods
- 1.12. "The Specification" shall mean the Services and Performance Specification attached to these conditions as Schedule 1
- 1.13. "University Background Information" shall mean all information supplied by the University in connection with the performance of the Contract, and all information in relation to the University's affairs, the business or the University's business practices, which comes to the Contractor's knowledge during the period of this Contract including the but not limited to the existence of this Contract and any provisions of this Contract
- 1.14. "University's Premises" shall mean any premises owned or occupied by the University

- 1.15. "University Supplied Items" shall mean all items supplied to the Contractor, by or on behalf of the University in connection with the Contract
- 1.16. In these Conditions, unless the contrary intention appears:-
- (a) words importing the masculine gender include the feminine
  - (b) words in the singular include the plural and words in the plural include the singular
  - (c) references to paragraphs and schedule are references to the paragraphs and schedules of this Invitation to Tender
  - (d) references to time shall be construed, during the period of summer time to be British Summer Time and otherwise to be Greenwich Mean Time
  - (e) references to any building whether by name, description, address or otherwise shall be construed as including the curtilage of that building
  - (f) references to 'staff' shall be construed as including all employees
  - (g) references to the University's supervisory staff shall be construed as including all staff performing a supervisory or managerial function

## 2. **Obligations of the contractor**

- 2.1. The Contractor shall carry out the Services detailed in the Service and Performance Specification. Unless otherwise specified in the Contract, the Contractor shall use first class quality materials and workmanship of their respective kinds and undertakes that the design, workmanship and materials used will be fit to achieve the purpose for which the Services are required, either as specified by the University expressly in the contract or as may be implied from the Contract, and the Contractor further acknowledges that in performing the Services the University is reliant upon the Contractor's skill and judgement.
- 2.2. The Contractor shall provide all supervision, labour, materials, transport and equipment necessary to perform such Services in accordance with the Contract except for any items which are to be provided by the University in accordance with clause 3.
- 2.3. The Contractor shall proceed with the carrying out of the Services regularly, diligently and in accordance with such Programme as may be included within the Contract.
- 2.4. Unless otherwise provided for in the Specification, the Contractor shall not deliver any items to the University's Premises or remove any items belonging to the University from the University's Premises without having first obtained permission from the Contract Manager.
- 2.5. The Contractor shall be deemed to have satisfied himself of the conditions and all circumstances affecting the Location and the carrying out of the Services. Accordingly, no claim by the Contractor for additional payment or extension of time will be allowed on the grounds of any matter relating to the premises or as to the circumstances of conditions under which the Services are to be provided.

### **3. Obligations of the University**

- 3.1. The University shall appoint a Contract Manager for the purpose of liaison with the Contractor and advise the Contractor in writing of such appointment. Any instructions given to the Contractor by the Contract Manager shall be deemed to be given by the University.
- 3.2. All the University Supplied Items shall remain the property of the University. The Contractor shall return them to the University upon their respectively being no longer required for the purposes of the Contract, upon completion or termination of the Contract, or reasonable request by the University, whichever is the earlier. The Contractor shall keep the University Supplied Items in safe custody and good condition, set aside and clearly marked as the property of the University.
- 3.3. Upon receipt of the University Supplied Items, the Contractor shall satisfy itself that they are not defective or deficient for the purpose for which they are being provided, and within 14 days of receipt shall notify the University of any defects or deficiencies.
- 3.4. The Contractor shall not, without the prior written consent of the University, use the University Supplied Items for any purpose other than is necessary for the performance of the Contract, or allow any other party to use, take possession of, or have any rights or lien over the University Supplied Items or other property of the University.
- 3.5. In particular, without limiting the generality of the preceding paragraph, the Contractor shall not have, and shall ensure that no subcontractor shall have, a lien on the University Supplied Items or other property of the University for any sum due. The Contractor shall take all reasonable steps to ensure the title of the University and the exclusion of such lien are brought to the notice of all subcontractors dealing with any of the University Supplied Items or other property of the University.
- 3.6. In the event of any threatened seizure of any of the University Supplied Items or Goods that have become the property of the University or in the event of the Contractor (or any third party in possession of such the University Supplied Items or Goods) going into receivership, administration or liquidation (or the equivalent of any of those) the Contractor shall :
  - a) notify the University immediately; and
  - b) draw to the attention of the receiver, administrator, liquidator, or other appointed official, that the University Supplied Items and any Goods that have become the University's property, are the property of the University and do not form part of the Contractor's assets; and
  - c) allow the University to enter the Contractor's premises or those of any third party where the University Supplied Items or Goods are stored and take possession of the University Supplied Items and any Goods that are at that time the property of the University.

### **4. Assignment and Subcontracting**

- 4.1. The Contractor shall not without the permission in writing of the University assign or subcontract the whole or any part of the Contract. Any such permission, if given, shall not relieve the Contractor of any obligation or liability under the Contract, and if so required by the University the Contractor shall procure that any such subcontractor shall enter into a deed of warranty direct with the University, on terms satisfactory to the University.

## **5. Amendments to the Service Information**

- 5.1. The University may from time to time request changes to be made to the Service Information and, from the date agreed between the University and the Contractor, the Services shall be in accordance with the Service Information as amended. Any increases or decreases in price and changes to the timescales of provision as a result of such changes, shall be reasonable and subject to negotiation between the University and the Contractor.
- 5.2. The Contractor shall not alter any aspect of the Services without the prior written agreement of the University.

## **6. Access, Assistance and Progress Reports**

- 6.1. The University shall give to the Contractor access to the Location for the purpose of carrying out the Services at such times as may be specified in the Contract, or if not so specified, as may reasonably be required by the Contractor to carry out the Services in accordance with the Contract.
- 6.2. While on the University's Premises the Contractor shall comply strictly with all applicable statutory enactments and regulations, by-laws or other regulations of local authorities, the University's Site Rules and Conditions and instructions from the University's Safety Officer.
- 6.3. The University shall have the right to require the Contractor to remove immediately from the University's Premises, or refuse access to the University's Premises, any employee or sub-contractor who has failed to comply with any of the requirements in clause 6.2 or in the sole opinion of the University misconducted himself or been negligent or incompetent, without incurring any responsibility to the Contractor for any additional costs or time.
- 6.4. The Contractor shall render such reports to the University on the performance of the Contract, and attend such meetings, as may reasonably be required by the University.
- 6.5. The Contractor shall nominate a suitable representative to attend all such meetings. The representatives shall be fully conversant at all times with the performance of the Contract. This representation will normally be the Contract Manager or his/her deputy.

## **7. Acceptance and Rejection**

- 7.1. The University shall have the right to inspect and test the progress of the Services at any time and to reject any work which is not in accordance with the Contract. The Contractor shall forthwith replace or re-execute any work so rejected. Any such inspection or testing shall not relieve the Contractor of any of his obligations under the Contract.
- 7.2. Initial receipt of the Services or Goods at the point of provision may be signed for as unexamined and this shall not affect the University's rights subsequently to reject those Services or Goods under this Condition. Where subsequent inspection shows the Services or Goods to be deficient in any respect, the Contractor shall make good the deficiency within 5 days of notice from the University of the deficiency.

## 8. **Payment**

- 8.1. Payment of the Contract Price shall be made by the University monthly in accordance with Schedule 2 - Terms of Payment. The Contractor shall be paid 30 days after the end of the month in which a correctly rendered invoice is received. Payment will only be made in respect of items of work as detailed in Schedule 2 which have been completed in accordance with the Contract and Accepted by the University.
- 8.2. Whenever a sum of money due to the University from the Contractor, in relation to the Contract or otherwise, is not paid on the due date, it may be deducted from any sum then due, or which at any time thereafter may become due, to the Contractor under the Contract or any other contract with the University.

## 9. **Use of the University's Premises**

- 9.1. The University shall during the Contract Period permit the Contractor to use free of charge in connection with the provision of the Services the following facilities as are available:
  - lavatory facilities
  - vending facilities
  - the existing internal telephone system at the location
- 9.2. The Contractor shall use the said facilities only in connection with the provision of the Services and shall ensure that the Contractor's staff use the said facilities only for that purpose.
- 9.3. The permission hereby given to use the said facilities is personal to the Contractor and the Contractor's staff and shall cease immediately this Contract ceases to be in force. Only the Contractor's own staff and persons making deliveries to the Contractor in connection with the provision of the Services may enter or use any part of the University's premises without the prior written permission of the Contract Manager.
- 9.4. For the avoidance of doubt, it is hereby declared that the permission to enter and use the University's premises hereby given is not the grant of a tenancy of any part of such premises.

## 10. **Publicity**

- 10.1. The Contractor shall ensure that no publicity relating to the Contract, shall take place without the prior written agreement of the University.
- 10.2. The provisions of this Condition shall survive the expiry or termination of the Contract.

## 11. **Notices**

- 11.1. Notices required under the Contract to be given in writing, shall be delivered by hand or post or facsimile transmission, to the Contract Manager at the address identified in this Contract. Notices shall be deemed to be given upon receipt except that notices sent by pre-paid first class registered post in a correctly addressed envelope shall be deemed to be given within forty-eight hours (excluding Sundays and public holidays) of posting, and

notices sent by facsimile (where delivery confirmation is obtained by the sender upon transmission) shall be deemed to be given upon transmission.

## **12. Observance of the University Site and other Regulations**

- 12.1. The Contractor shall at its own expense comply with all laws, legislation, instruments, rules, orders, regulations, by-laws and the University Site Rules and Conditions applicable to the performance of the Contract and take and comply with such other measures as may be reasonably necessary in respect of precautions for safeguarding all persons and property as may be affected by the performance of the Contract.

## **13. Extension of Time**

- 13.1. Should the performance of the Contract be directly delayed by any cause beyond the reasonable control of the Contractor, and provided that the Contractor shall have first given the University written notice within five working days after becoming aware that such delay was likely to occur, then:
- a. in respect of any delay of which the University is not the cause, the University may at its sole discretion grant the Contractor such extension of time as the University may in its opinion deem reasonable having regard, without limitation, to any other delays or extensions of time that may have occurred or been granted in relation to the Contract;
  - b. in respect of any delay of which the University is the cause, the University shall grant the Contractor a reasonable extension of time to take into account such delay.
- 13.2. For the avoidance of doubt, any extension of time granted under this Condition shall not affect the University's right to terminate the Contract at any time under paragraph 4 of the Condition headed "Termination" in these Conditions.

## **14. Termination**

- 14.1. If the Contractor commits a breach of the Contract (or any other contract with the University related to the Contract or the Services) and, in the case of such a breach which is capable of remedy, fails to remedy the breach within 7 days (or such longer period as the University may at its option agree in writing) of written notice from the University to do so then, without prejudice to any other rights or remedies the University may have, the University shall have the right:
- a. at any time to terminate the Contract forthwith as a whole or (at the University's option) in respect of any one or more orders, parts or instalments, for or of the Services, made or provided or to be made or provided under the Contract and,
  - b. to claim for all resulting losses and expenses (including, without limitation, the cost of replacing the Services in respect of which the Contract has been terminated with services of a similar description).
- 14.2. Without prejudice to any other rights or remedies it may have, the University shall have the right at any time to terminate the Contract forthwith and to claim for all resulting losses and expenses (including, without limitation, the cost of replacing the Services with services of a similar description) if:

- a. the Contractor shall become insolvent or cease to trade or compound with its creditors; or
  - b. a bankruptcy petition or order is presented or made against the Contractor or, where the Contractor is a partnership, against any such partner, or if a trustee in sequestration is appointed in respect of the assets of the Contractor or (where applicable) any such partner; or
  - c. a receiver or an administrative receiver is appointed in respect of any of the Contractor's assets; or
  - d. a petition for an administration order is presented or such an order is made in relation to the Contractor; or
  - e. a resolution or petition or order to wind up the Contractor is passed or presented or made or a liquidator is appointed in respect of the Contractor (otherwise than for reconstruction or amalgamation).
- 14.3. Without prejudice to any other rights or remedies it may have, the University shall have the right at any time to terminate the Contract forthwith if the ownership or control of the Contractor is materially changed.
- 14.4. The University may at any time on written notice, without prejudice to any other rights or remedies it may have, terminate the Contract forthwith as a whole or (at the University's option) in respect of any one or more orders, parts or instalments, for or of the Services. Where the University so terminates under this paragraph 4 and does not have any other right to terminate the Contract, the following shall apply:
- a. the University shall, subject to sub-paragraph (b) below, pay the Contractor such amounts as may be necessary to cover its reasonable costs and outstanding and unavoidable commitments necessarily and solely incurred in properly performing the Contract in relation to the Applicable Services (as defined below) prior to termination.
  - b. the University shall not pay for any costs or commitments that the Contractor is able to mitigate and shall only pay for those that the University has validated to its satisfaction. The University's total liability under sub-paragraph (a) above shall not in any circumstances exceed the price that would have been payable by the University for the Applicable Services if the Contract had not been terminated.
  - c. In this clause 13.4, "Applicable Services" means the Services in respect of which the Contract has been terminated under this paragraph, which were ordered by the University under the Contract before the date of termination, and for which payment has not at that date become due from the University.

## 15. Confidentiality

- 15.1. The University enterprise possesses a valuable body of confidential information and that the disclosure of any confidential information to any third party would place the University enterprises at a serious competitive disadvantage and would cause financial and other damage to the University's business. The Contractor shall at all times endeavour to act in the best interests of the University under a duty of trust and confidence.

- 15.2. Subject to paragraph 4 of this clause, the Contractor shall keep confidential all the University Background Information and any other Information relating to the University's operations which, and shall not without the prior written consent of the University:-
- a. use any of the University Background Information or other University Information for any purpose other than is necessary for the performance of its obligations under the Contract or,
  - b. disclose any of the University Background Information or other University Information to any person other than a person directly employed or engaged by the Contractor in the performance of the Contract. Disclosure to all persons shall be made in confidence and only to the extent necessary for the performance of the Contractor's obligations under the Contract.
- 15.3. Subject to paragraph 4 of this clause, the University shall keep confidential all Contractor's Background Information supplied to the University under the Contract and shall not disclose the same to any third party without the prior written consent of the Contractor, provided always that the University may disclose or use, without consent, Contractor's Background Information to the extent necessary for the exercise of the University's rights under the Contract including any licenses granted.
- 15.4. Neither party to the Contract shall be bound by the above provisions of this Condition in relation to Information that is:
- a. published or comes into the public domain otherwise than by a breach of the Contract; or,
  - b. lawfully known to it before commencement of the work the subject of the Contract or the date of the Contract whichever is the earlier and is not subject to a previous obligation of confidentiality binding that party; or,
  - c. lawfully obtained by it from a third party which is free to divulge that Information; or,
  - d. replicated by development independently carried out by or for it by an employee or other person without access to, or knowledge of, such Information.
- 15.5. The Contractor shall ensure that each subcontractor engaged in relation to the Contract is bound by similar confidentiality terms to those set out in this Condition.
- 15.6. The provisions of this Condition shall survive the expiry or termination of the Contract.

## 16. **Intellectual Property**

- 16.1. All the University Background Information and any copies thereof and all Intellectual Property Rights therein shall remain the property of the University. The Contractor shall return the University Background Information to the University upon completion or termination of the Contract, or earlier upon reasonable request by the University.
- 16.2. Except as expressly set out in the Contract no assignment of or license under any Intellectual Property Right or Trade Mark or Services Mark, whether registered or not, owned or controlled by the University is granted by the Contract.
- 16.3. The provisions of this Condition shall survive the termination or expiry of the Contract.

## **17. Inducements**

- 17.1. If the Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as inducement or reward for doing or forbearing to do or having done or forborne to do any action in relation to the obtaining of this contract or any other contract with the University or for showing or forbearing to show favour or disfavour to any person in relation to this contract or any other contract with the University, the Contractor or any person employed by the Contractor or acting on the Contractor' behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916 or shall have given any fee or regard to any officer of the University which shall have been exacted or accepted by such officer under colour of his office or employment and is otherwise than such officer's proper remuneration, the University shall be entitled to determine this contract and to recover from the Contractor the amount of any loss resulting from such termination.
- 17.2. For the purposes of clause 16.1 the expression 'loss' shall include the reasonable cost to the University of the time spent by its officers in terminating this Agreement and in making alternative arrangements for the provision of the Services.

## **18. Passing of Risk and Property**

- 18.1. The property in any Goods supplied to the University (and intended to become the University's property) shall in each case pass to the University on the earlier of delivery of, payment for, and incorporation with any of the University Supplied Items (or other property of the University) of, the Goods concerned.
- 18.2. Notwithstanding that the property in the Goods may have passed to the University the Contractor shall carry all risk of loss or damage to the Goods in each case until delivery to the University occurs in accordance with the Contract, except where the Contractor is installing any of the Goods when risk shall pass on completion of the installation.

## **19. Indemnity and Insurance**

- 19.1. Subject to sub-clause 3 below, the Contractor shall indemnify the University against all losses, costs, damages and expenses arising out of the death or injury to any person, or the loss or damage to any physical property, other than the goods which are the subject matter of work under the Contract, to the extent that the same is due to or arises out of any act, default, negligence or breach of statutory duty of the Contractor, his servants, agents or sub-contractors and against all actions, claims demands or proceeding in respect thereof.
- 19.2. Subject to sub-paragraph 3 below the University shall indemnify the Contractor against all losses, costs, damages and expenses arising out of the death or injury to any person, or the loss or damage to any physical property to the extent that the same is due to or arises out of any act, default, negligence or breach of statutory duty of the University, its servants, agents or subcontractors (other than the Contractor, his servants, agents or sub-contractors) and against all actions, claims, demands or proceddings in respect thereof.
- 19.3. The limits of liability of each party to the other in respect of the above indemnities for any one event or a series of connected events shall be £1 million save that there shall be no limit of liability in respect of death or injury to any person.

- 19.4. The Contractor shall be strictly liable in respect of any loss or damage to any goods the subject matter of work under the Contract due to any cause originating while the same are under his care, control or in his possession howsoever such loss or damage may be caused and whether due to the Contractor's or his servants' or agents' or sub-contractors' negligence, or not, except to the extent that may such loss or damage is due to the act, default, negligence or breach of statutory duty of the University, its servants, agents or subcontractors (other than the Contractor).
- 19.5. Without prejudice to their liabilities under the Contract each party shall insure with a reputable insurance company against death or injury to persons and loss or damage to physical property, including the goods the subject matter of the Contract, arising out of their obligations under the Contract, and shall if so requested by the other, provide proof of such insurance.
- 19.6. Should the Contractor fail to provide satisfactory evidence of insurance as indicated above, then the University may arrange appropriate insurance cover against any risk with respect to which such failure may occur. Any premiums paid by the University to effect such insurance shall be recoverable from the Contractor.
- 19.7. The Contractor shall notify the University as soon as it knows or becomes aware of any event arising in connection with the Contract which the Contractor believes may give rise to an obligation to indemnify the University in accordance with the Contract, or to a claim under any insurance policy falling within the terms of this Condition.

## 20. **Waiver**

- 20.1. No delay, neglect or forbearance on the part of the University in enforcing against the Contractor any provision of the Contract shall be deemed to be a waiver or in any way prejudice any rights of the University under the Contract.
- 20.2. No waiver by the University shall be effective unless made in writing.
- 20.3. No waiver by the University of a breach of the Contract shall constitute a waiver of any subsequent breach.

## 21. **Enforceability**

- 21.1. The invalidity or unenforceability for any reason of any provision of the Contract shall not prejudice or affect the validity or enforceability of its other provisions.

## 22. **Headings**

- 22.1. The headings to these Conditions are for ease of reference only and shall not affect their interpretation.

## 23. **Entire Agreement**

- 23.1. The Contract shall be the entire agreement between the University and the Contractor in respect of the subject matter of the Contract and no prior negotiations, representations, or agreements in relation to such subject matter shall have effect.

24. **Third Parties**

- 24.1. No person other than the parties to this Contract shall have the right to enforce any of the rights and obligations under this Contract, pursuant to the Contracts (Rights of Third Parties) Act 1999 (or otherwise), except to the extent that the Contract expressly provides for such Act to apply to a particular term or terms.

25. **Arbitration**

- 25.1. Any dispute, difference or question between the parties to this Agreement with respect to any matter or thing arising out of or relating to this Agreement which cannot be resolved by negotiation shall be referred to arbitration under the provisions of the Arbitration Act 1950 to 1979 or any statutory modification or re-enactment thereof by a single arbitrator to be appointed by agreement between the parties or in default of agreement by the President for the time being of the Chartered Institute of Arbitrators.

26. **Law and Jurisdiction**

The Contract shall be governed by English law and subject to the non-exclusive jurisdiction of the English courts.

